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"USB: One Part of the Energy Deregulation Debacle That Could Be Corrected"

A Report of The Policy Institute

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The Policy Institute blends authoritative research and hands-on political engagement to create public policy based on economic justice, fair taxation, corporate accountability and environmental responsibility.

SUMMARY

Montana's Universal System Benefits program, a product of Montana's energy deregulation in 1997, delivers some benefits to the state, but suffers from decaying financial strength, mixed objectives, big-business bias, uncertain and disparate contributions from cooperatives, and insufficient accountability. The program should be overhauled by the Montana Legislature to ensure adequate and fairly distributed funding and to establish an administrative structure that utilizes an independent, non-government organization to deliver USB services.

BACKGROUND

"In modern Montana history, there is one defining moment, and that defining moment is deregulation." -Cal Sweet, founder of Kalispell Electric, February 18, 2001

The "defining moment" occurred on May 2, 1997, when Governor Marc Racicot signed into law SB 390, the "Electric Utility Restructuring and Customer Choice Act," known otherwise and ever since as deregulation.

An assessment as transcendent as Mr. Sweet's usually arouses one's sense of hyperbole, but time has bolstered his case. The legacy of deregulation in Montana includes the disintegration of a Fortune 500 company, the loss to Montana of one of the nation's least expensive and most stable sources of electric supply, explosive rate increases that shocked residents, businesses, and the state economy during the years that deregulation took full effect, the near-instantaneous meltdown of the Montana Power Company's corporate telecom progeny (TouchAmerica), the vaporization of savings and retirement accounts that had been built around stock holdings in a century-old company, and a cost of electricity to Montanans that will be forever higher than what it would be had deregulation not occurred.

Yet perhaps even Mr. Sweet didn't grasp the entire definition of the moment, as he probably wasn't viewing deregulation as the crowning achievement in the return of corporate power to political and economic dominance in Montana. After a 40-year period in which Montana's people had wriggled free of its copper collar, adopted an enlightened state constitution, enacted farsighted environmental and tax legislation, and developed educational, regulatory, and governmental institutions to be proud of, the corporate comeback began in the early 1990s, gained strength in mid-decade with the erosion of progressive tax and regulatory policies, and reached its zenith with deregulation. The defining moment of 1997 made it crystal clear who was in charge.

As the effects of deregulation unfolded, some Montanans attempted to undo the damage, but the genie, to cite the most uttered metaphor of the day, had left the bottle. Through the actions of the Montana Legislature and Governor Racicot, Montanans had ceded control of low and stable electrical rates by disassociating power generation from power distribution and allowing the corporations who purchased the Montana Power Company's generation facilities to set the price of energy.

Deregulation involved several changes, however, and some may be alterable, such as the program of Universal System Benefits. This provision, included to ensure the continuation of existing "public purpose" programs of regulated utilities and as a palliative to the oversized corporate pill being offered to Montanans, was intended, in the words of statute (69-8-402 MCA), "to ensure continued funding of and new expenditures for energy conservation, renewable resource projects and applications, and low-income energy assistance." The words are reassuring, but like most elements of deregulation, Universal System Benefits has not lived up to its promise.

HOW USB WORKS

The Universal System Benefits (USB) program requires all utilities in Montana, both investor-owned and cooperative, to make expenditures for activities related to energy conservation, renewable energy projects, and low-income energy assistance. For electricity, the base funding level for each utility is fixed: 2.4 percent of the utility's annual retail sales revenue in Montana for calendar year 1995. For natural gas, the Public Service Commission establishes a charge based upon several cost factors, and at least 0.42 percent of a utility's annual revenue from the previous year must be dedicated to low-income weatherization and low-income energy bill assistance (69-3-1408 MCA).

Montana's USB programs began collecting funds through utility bills in January 1999.

For investor-owned utilities (Northwestern Energy and Montana-Dakota Utilities), which are regulated by Montana's Public Service Commission, the Commission reviews and approves the USB charges that will yield the required funds. For cooperatives, USB charges are to be established by the co-ops' governing boards.

In enacting USB legislation in 1997, the Legislature determined that a minimum of 17 percent of total USB funds collected is to be dedicated to low-income programs. The regulated utilities and cooperatives report that they regularly exceed that requirement in their USB programs. There are no minimal funding requirements for conservation and renewable projects, the other public purposes of USB.

Cooperative electric utilities, of which there are currently 25 in Montana, are allowed to pool their collective USB expenditures to meet the 2.4 percent threshold. They are also allowed to report collectively, through a summary report prepared by their statewide association, the Montana Electric Cooperatives' Association.

The cooperatives are also allowed to include as a USB credit their purchase from energy wholesalers (most commonly, the Bonneville Power Authority) of energy that has been produced through conservation or renewable methods. Such conservation and renewable energy is not differentiated by the wholesaler in terms of price or offered as a choice to buyers, so its purchase by cooperatives does not occur as a result of USB requirements.

"Large customers," defined in the deregulation statutes as utility customers with an individual load greater than a monthly average of 1,000 kilowatts, are allowed to "self-direct" their USB obligations. That means that those customers may obtain reimbursement of their USB payments to the utilities for internal company expenditures that serve USB objectives. There are about 60 large customers in Montana (the number varies from year to year), most of which claim full USB credit for internal projects. Most large customers in Montana are industrial plants (cement, refining, timber, mining, et al), some are public institutions (universities), and some are nonprofits (large hospitals).

Statute (69-8-402 MCA) sets a charge for large customers at 0.9 mils per kilowatt hour, but limits an entity's annual obligation to $500,000. Thus, a large customer that uses a great deal of electricity, e.g., Columbia Falls Aluminum Company, experiences no increase in USB charge for any amount of electricity consumed the amount that yields a $500,000 USB annual charge.

All utilities, the cooperatives (as a collective), and large customers claiming a credit for self-directed USB expenditures are required by USB law (69-8-402[8-10] MCA) to file an annual report with the Montana Department of Revenue, due before March 1 of the subsequent year. The USB law also includes a provision (69-8-414 MCA) that describes a process for allowing public objection to USB claims and a Department protocol for evaluating and passing judgment on the objection.

The Department of Revenue has adopted, as required by statute (69-8-413 MCA), an administrative rule (42.29.101 et seq, ARM) that establishes reporting requirements and an objection procedure for the reports.

Most USB funds are expended on eligible projects administered directly by the utilities, cooperatives, and large customers obligated to participate in the program. Thus Northwestern Energy, Montana-Dakota Utilities, and most cooperatives maintain internal USB programs, and large customers decide on and oversee their self-directed USB expenditures.

USB revenue from electricity sales that is not internally allocated by a reporting entity is directed to a state USB fund in the Department of Revenue. (There is no requirement that any portion of natural gas USB revenue be directed to a state fund.) Disposition of those funds is generally split evenly – through agreement of the Department of Environmental Quality and the Department of Public Health and Human Services – for use on energy and low-income programs. Contributions to this state fund are minimal; in 2007, Montana-Dakota Utilities was the sole contributing utility, at $279,000, or less than two percent of all USB expenses.

Some USB funds are allocated for use by external agencies or organizations that pursue USB-related objectives. The Weatherization Assistance Program of the Montana Department of Public Health and Human Services currently receives about $2 million per year from USB parties, and Energy Share receives between a half million and million dollars per year (Energy Share was not forthcoming about revenue from USB sources) for low-income energy bill assistance.

The USB charge for natural gas consumption in Montana is mandated and described in 69-3-1408 MCA. The statute assigns authority to the Public Service Commission for determining the

charge, but it requires that at least 0.42 percent of the natural gas utility's annual revenue in gas sales be dedicated to low-income weatherization and low-income energy bill assistance. In practice, Northwestern Energy is the largest contributor ($2,236,845 in 2006, with 15 percent allocated to conservation and 85 percent to low-income), contracting much of its low-income USB work to local, nonprofit Human Resource Development Organizations.

There is no large-customer element of the natural gas USB program. Natural gas utilities are required to submit annual reports on USB charges to the Public Service Commission.

SUMMARY OF USB FUNDING (ELECTRICAL) IN 2007

Two regulated utilities (Northwestern Energy and Montana-Dakota Utilities), the Montana Electrical Cooperatives' Association (representing 25 cooperatives), and several dozen large customers filed USB reports with the Department of Revenue for 2007. Here is a summary:

- Northwestern Energy (expense, as reported) $9,410,197
  - low income = $4,170,445
  - large customer = $3,063,311 (56 customers; $107,197 self-directed to low-income projects; $2,906,146 self-directed to internal improvements; balance for administrative fees and additional low-income activity)
  - conservation = $1,392,934
  - renewable R & D = $783,507
  - state USB fund (Dept. of Revenue) = $0
- Montana-Dakota Utilities (expense, as reported) $879,904
  - low income = $366,376
  - conservation = $25,777
  - large customer = $231,813
  - state USB fund (Dept. of Revenue) = $279,357
- Cooperatives (expense, as reported) = 10,704,361
  - low income = $1,050,896
  - conservation = $9,213,766
  - renewable (projects and R&D) = $439,700
  - large customers = $0
  - state USB fund = $0
- Total = $20,994,462

The above total does not include a large customer credit of $500,000 to the Columbia Falls Aluminum Company. Though that company has made a claim of that same amount for several years, no 2007 report for the company had been filed by the deadline of March 1, 2008.

OBSERVATIONS ON MONTANA'S USB PROGRAM

Because a utility's electric USB obligation remains fixed (at 2.4 percent of its revenue from electricity sales in 1995), the program's financial power has been significantly eroded by inflation. The total USB obligation from all sources – regulated utilities and cooperatives - at the program's outset in 1999 was about $13 million, but inflation of 36 percent in the period 1999-2007 (as measured by changes in the consumer price index) has reduced the current value of that fixed obligation to about $9.5 million, in 1995 dollars. Thus, while the cost of living, as well as the sales revenue for utilities, has increased markedly in eight years, the ability of the electric USB program to deliver public service has decreased considerably.

If the USB funding structure is not altered (principally by the Montana Legislature, and, to a lesser degree, by the Public Service Commission), inflation will decrease the USB buying power to $8.3 million in 2012 and to $7 million in 2020. Notably, these estimates are based on inflation estimates of the Congressional Budget Office, which are conservative and, in this period, average about 2.2 percent annually.

By serving three objectives, i.e., "energy conservation, renewable resource projects and applications, and low-income energy assistance," and failing to establish a formula for the distribution of funds between those multiple masters, the (electrical) USB statute creates a fertile landscape for competition between political interests. Most of the tension has occurred between the advocates and managers of low-income assistance programs and those in support of conservation and renewable energy work. Given the difficulty of concluding that, say, pioneering projects in renewable energy should be as high a priority as helping low-income people pay their current energy bills, especially in an era of rapidly rising energy costs, it is not surprising that the low-income element of the USB system has grown the most over the years. This is not to say that the low-income programs are not needful of what they receive, but it helps to explain why conservation and renewable programs are receiving less than what is desirable in that increasingly important sector of energy management.

It should be observed that communication between stakeholders in the USB program, including low-income service providers, environmental advocates, and agency administrators, has produced agreement that it was advisable to move some conservation measures from the USB program into the regulated utilities' default supply portfolio. This move, executed by authority of the Public Service Commission, relieved some pressure to reduce USB funding for renewable energy projects.

Most USB expenses claimed by the cooperatives would be incurred whether the USB program existed or not. In 2007, the cooperatives reported that $7,504,236, or 70 percent of their total USB commitment, was expended for the cooperatives' collective purchase of power produced through conservation or renewable activities by energy wholesalers, e.g., Bonneville Power Administration. The conservation and renewable power is a default portion of the wholesale energy package, so cooperatives have no choice about buying it.

Because the USB statute says that "a utility must receive credit toward annual funding requirements for the utility's internal programs or activities that qualify as universal system

benefits programs," the cooperatives are allowed to receive USB credit for those conservation and renewable purchases. But those purchases would be made, as explained above, even without the USB program, so the USB program has no practical effect on the conservation and renewable energy purchases by the cooperatives.

Statute allows all cooperatives in the state (currently, 25 of them) to pool their USB expenditures, so there is no requirement that each cooperative meet the minimal USB funding level. As a result, there is a wide disparity in the relative size of USB commitments, expressed as the percentage of USB expenditures to revenue from electricity sales, among individual cooperatives.

For example, the Flathead Cooperative accounted for nearly a third ($50 million of $154 million) of the cooperatives' collective sales revenue in 1995, the base year of the USB program. In 2007, the Flathead reportedly expended $6 million on USB activities, or 12 percent of its 1995 sales. This relatively large USB percentage (2.4 percent is the statutory minimum) contrasts sharply with several cooperatives that spent considerably less - Goldenwest (2 percent), Southeast (1.4 percent), Northern (1.3 percent), and McCone (1.1 percent) – but the relative large contribution by the Flathead and the allowance for pooling allows the disparity to exist.

The disparity exists in both the conservation and low-income categories of USB spending by cooperatives. In 2007, Flathead spent 11 percent of its total USB allocation on conservation (most through purchase of conservation power from energy suppliers), while Glacier spent 1.7 percent, Northern spent 0.9 percent, and Southeast spent 0.8 percent. In low-income programs, Flathead spent 9.2 percent, while Goldenwest (0.4 percent), Mid-Yellowstone (0.3 percent), and McCone (0.2 percent) spent markedly less.

The relative differences in USB spending that arise from cooperative pooling mean that electrical customers in some areas of Montana, e.g., the area served by the Flathead Cooperative, receive more USB benefits than customers in other parts of the state. Even if one allows that customer benefits from conservation spending by a cooperative are not a result of the USB program, there still appears to be a significant difference in low-income USB benefits offered by various cooperatives.

It may be argued that electrical rates in cooperative service areas with less USB spending are lower than in districts that elevate their rates to fund certain USB programs. If that is true (a comparative analysis of cooperative rates is not in the scope of this analysis), it leaves the question of whether USB objectives are being sufficiently addressed in the service areas of the low-spending cooperatives. For example, low-income energy customers would undoubtedly benefit more from USB programs dedicated to addressing their particular needs than from marginally lower electrical rates charged to all consumers over the entire service area. In any event, we have encountered no evidence that electrical rates charged by cooperatives differ based on the cooperatives' respective commitment to USB programs.

As for charges made explicitly for the support of USB programs, customers of regulated utilities pay them, while customers of cooperatives do not. This is attributable to statute (69-8-402 MCA), which mandates the "funding" of USB programs, but not a specific USB charge, and

which also assigns authority to establish USB charges in different ways for regulated utilities and for cooperatives. For the regulated utilities, USB charges are established by the Public Service Commission, which traditionally oversees utilities with scrutiny and feels inclined to make close connections between utility programs and their funding sources. For cooperatives, the authority to make USB charges is assigned to the cooperatives' individual governing boards, none of which apparently have found it necessary, in view of the pooling and credit advantages enjoyed by cooperatives, to set a specific USB charge for their customers.

"Large customers," comprised of about 60 of the state's biggest industrial plants and institutional facilities, pay almost nothing to support the low-income portion of the USB program. Although the USB obligation of large customers in Northwestern Energy's customer base represent about one third of that utility's demand base and, consequently, its USB obligation, almost all those large customers claim USB credit for expenditures on plant equipment, mechanical upgrades, and other internal projects, leaving just a small fraction of their USB obligation (in a typical year) for low-income programs. Though most of those internal investments may result in energy conservation, the benefits are internalized, meaning that the low-income programs in, say, Northwestern's service area are supported solely by Northwestern's residential and small business customers. Thus, in Northwestern's service area, the largest utility service area in Montana, the USB obligations of residential and small-business customers support a public objective, i.e., low-income programs, while the USB obligations of the state's largest electrical consumers benefit just themselves.

Large customers enjoy the additional privilege of paying lower USB rates that residential customers and small businesses. In 2007, residential customers of Northwestern Energy paid $0.001334 per kilowatt-hour toward the Montana's USB program, while commercial and small industrial customers paid $0.001143 and large customers paid $0.000900 for USB support – 32 percent less than residential customers. If Northwestern's large customers were to pay the same USB rate as residential customers, approximately $1 million in income would be raised annually.

While it may be justifiable for the USB program to provide some level of support for USB-related internal improvements of large businesses and corporations, there is no compelling reason why that level should be 100 percent, as is currently the case in Montana.

And while some large businesses may be less inclined to make energy-conserving investments without the inducement of USB program credit because of internal competition among competing desires (new positions, advertising, executive bonuses, et al) and the quick payback expected by commercial investors on their investments, the current 100 percent subsidy level of the USB program is excessively generous.

The rising cost of Northwestern's natural gas USB program, caused principally by sharp increases in gas prices and the utility's subsequent discounting of gas bills to low-income customers, has led to the subsidization of the utility's gas USB program with USB revenue from electricity sales. This imbalance reflects an insufficient USB charge for gas consumption, which is determined by the Public Service Commission, and has placed additional strain on electric USB programs, particularly those serving conservation and renewable objectives.

In a filing with the Public Service Commission, Northwestern reported that 20 percent of its gas total USB expenditures of $2.9 million in 2006 were covered by electric USB funds. That subsidy amount, i.e., $600,000, represented about 6 percent of the utility's 2006 electric revenue ($9.4 million) in the same year.

Weak to non-existing reporting requirements make it impossible to evaluate the success of the USB program or the scope of the shortcomings identified in this analysis. The law (69-8-401[8-10] MCA) requires that utilities and the state cooperative association file an "annual summary report" to the Department of Revenue. Northwestern Energy files the most informative report, while the cooperative report provides scant detail and leaves one wondering about the substance and recipients of several USB programs.

Large customer filing for a USB credit also must submit a summary report, and they are further obliged to "identify each qualifying project or expenditure for which it has claimed a credit and the amount of the credit." This provision doesn't require details, and although some large customers provide adequate description of their equipment and upgrade projects, many do not. The Department of Revenue's administrative rule for reporting (42.29.101 et seq, ARM) is also general, requiring only that large customers identify each qualifying USB project and the amount of credit claimed for each.

The USB statute requires that "a utility or large customer filing for a credit shall develop and maintain appropriate documentation... to support the claim," but that information is not required to be part of the report to the Department of Revenue and is not a public record.

For its part, the Department of Revenue serves mainly to receive and file USB reports, and it performs no oversight or performance-evaluating functions.

Although some USB reports are informative and reflect a serious attempt to explain programs or projects, many fail to provide sufficient information on which to base judgments about applicability to USB objectives. And, perhaps most importantly, while certain program results may be obtained for low-income programs either through a PSC-regulated utility or the state agencies that administer some of the programs, there is nothing in place to monitor the results of the large-customer projects or to know how much energy they are actually conserving – or not.

The most important shortcoming of Montana's USB program – in that it underlies several of those mentioned above – is its lack of a central, mission-dedicated managerial authority. The root of this problem is a statute with multiple objectives, no creation or delegation of an administrative authority, and no provision for monitoring. In practice, therefore, USB administration is spread among various public and private entities, addresses three general policy objectives (energy conservation, renewable energy development, and low-income assistance), and functions, in some program sectors, with no monitoring or evaluation.

The current USB formula is one which neither an established business nor a competent government would utilize, if left to its own devices, for a $14 million program. In the case of Montana's state government, one has little chance of encountering another public policy implemented with so little accountability.

Running parallel with the balkanized nature of USB's administrative structure is the absence of shared motivation by program principals. While some agencies and organizations, e.g., Energy Share and the state's Intergovernmental Human Services Bureau (of the Department of Health and Human Services), operate explicitly to achieve USB objectives (low-income energy bill assistance and weatherization programs, respectively), other USB players, such as the regulated utilities and electric cooperatives, exist for other, sometimes contradictory, reasons. Regulated utilities strive to profit from the transmission and distribution of energy, and that profit traditionally has not been enhanced by energy conservation, although Montana's Public Service Commission has approved a "Lost Revenue Recovery Mechanism," which provides compensation for conservation by utilities.

While it's possible to see a utility performing adequately in its management of internal USB programs, it's also evident that some utilities and cooperatives show little enthusiasm for USB objectives. One could criticize the less committed USB principals for complacence, but it makes more sense to question why USB program authority was assigned to them in the first place.

OTHER STATES

Sixteen states and the District of Columbia currently have public benefit funds similar to Montana's USB program. Many other states of the union have programs, whether public, quasi-public, or private, that provide energy bill-paying assistance to low-income people, and some other states have programs that pursue energy conservation and efficiency. Ample research has been done on the myriad state formulas and administrative structures that underlie these various energy-related programs, so extensive comparative research won't be undertaken here.

Low-income energy programs tend to be administered by public (usually state) agencies because of the relatively long-term involvement of government (both at the state and, significantly, federal levels) in addressing low-income challenges. On the other hand, energy programs related to conservation and efficiency are managed from a broader mix of authority and administrative structure. One reason for this is that the deregulatory push of the 1990s was played out principally at the state level, and many of the states who made major changes in energy regulation and policy formulated individual approaches to the design of their USB programs, many of which began in the context of deregulation and most of which focused on energy conservation and efficiency.

Because this analysis is concerned with Montana's state-created USB structure, it has led to the consideration of USB (or similar) programs of other states. Most of the USB programs of other states, it appears, were created to emphasize energy conservation and efficiency objectives, and although those objectives include services to low-income constituents, they often do not include so-called "emergency" programs that assist in the payment of energy bills. In itself, the narrower sense of purpose adopted by several states in the establishment of their USB programs raises questions about the sometimes competing objectives within Montana's broad intent.

The administrative structures of all USB programs fall broadly into one of four categories:

- State agency
- Distribution utility (e.g., Northwestern Energy in Montana)
- Fully integrated utility (one that possesses its own generating and distribution capacities)
- Independent, non-government organization

Research results indicate that a particular administrative structure does not exclusively determine whether a USB program works well or not, but it is a leading indicator. While one might find an apparently successful program working under any of the four basic administrative frameworks, it is more likely that most USB programs operating within a particular structure share certain characteristics. Here are some examples:

- USB programs administered by state agencies tend to be slower to respond to changing conditions in energy markets and technologies, and they are vulnerable to budget raids by legislatures and governors;
- Programs administered by utilities (distribution and integrated) usually have an established, intimate relationship with customers, yet also work with multiple – and often conflicting – motivations (why excel at energy conservation if the corporate goal is profit through energy consumption?);
- Independent administrative organizations appear to produce the best results in energy conservation and efficiency.

Any judgment about the superiority of the independent administrative structure should be tempered with the realization that the independent model is the least utilized of the four administrative categories. There are various reasons for that, but the USB programs of the few states using the independent model are highly regarded in many professional papers and by observers of public energy policies around the country.

Two states – Vermont and Oregon – offer the clearest examples of independently administered USB programs. Vermont's legislature created law that established a franchise for a regulated energy efficiency utility, which is similar to the franchise for most state energy-regulation commissions. After the Vermont Public Service Board (the state's regulatory commission) developed a method for selecting, overseeing, and evaluating an efficiency utility, the board contracted with Efficiency Vermont, an independent, nonprofit organization, to provide conservation and efficiency services for the state.

In Oregon, the legislature gave the state's Public Utility Commission discretion to pursue USB goals through independent administration. The Commission decided to create a nonprofit trust, Energy Trust of Oregon, to deliver Oregon's energy conservation programs. The Energy Trust currently operates through a 10-year contract with the Public Utility Commission.

The Vermont and Oregon systems (as well as that of New York, which reflects a blend of governmental and independent administrative traits), generally receive high marks for clarity of mission, accountability, effectiveness, evaluation, and stakeholder support.

RECOMMENDATIONS FOR MONTANA

At the root of Montana's USB program is a fundamentally flawed law, one that allows inflation to continually sap the program's strength, fails to delineate terms of authority and budget among diverse objectives; lacks requirements for accountability, monitoring, and evaluation; favors the interests of large customers; and requires less support from customers of electric cooperatives than for those of regulated utilities. The number and seriousness of the shortcomings of the current USB program warrant a complete statutory overhaul.

A new USB code should replace those statutes that define the current program, including 69-8-402 MCA (definition of terms and basic structure), 69-8-414 MCA (credit review and reporting process), and 69-3-1408 (natural gas USB program). The new statute should include these elements:

- The base electric USB funding level is equal to 2.4 percent of each utility's annual retail electric sales for the previous calendar year;
- The base natural gas USB funding level is determined by the Public Service Commission and based on factors of need, cost-effectiveness, resource price, and utility gas revenues;
- Electric USB and natural gas USB are considered separate programs, with no transfer or subsidization of funds allowed between programs;
- 35 percent of total USB revenue is allocated for conservation objectives; 25 percent is allocated for low-income objectives; 15 percent is allocated for renewable objectives; 25 percent is allocated at the discretion of the Public Service Commission;
- Each utility entity, regulated and cooperative, shall meet the funding level requirement; pooling of contributions is not permitted;
- USB credit may be claimed only for expenditures that produce program benefits directly for its customers in Montana;
- Utility customers may not claim credits for internal or self-directed USB programs;
- Each utility customer shall receive and pay USB charges based on its total energy consumption and without special rates or caps;
- An independent, non-government "efficiency utility" shall be established to administer USB programs;
- Contract administrator and fiscal agent positions, independent of the efficiency utility, shall be established and defined to ensure accountability;
- Montana's Public Service Commission shall have oversight of USB programs, funds, efficiency utility, contract administrator, and fiscal agent;
- The relationship and lines of authority between the Public Service Commission and the efficiency utility, contract administrator, and fiscal agent shall be defined;
- Reporting, monitoring, and evaluation requirements shall be identified and defined;
- A process and three-year timeline for transition between the existing USB system and the new system shall be described.

CONCLUSION

The shortcomings in Montana's USB programs – a fixed funding base, mixed (and sometimes competing) objectives, big-business bias, unshared commitment by cooperatives, and insufficient accountability - can be addressed constructively with an overhaul of the guiding statutes. Because of the number and variety of state USB programs throughout the nation, Montana can profit by emulating the administrative structure of the most successful programs, which utilize an independent, non-government organization to deliver USB programs.